IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:02.02.2017

Coram:

The Hon'ble Mr.Justice HULUVADI G.RAMESH
AND
The Hon'ble Dr. Justice ANITA SUMANTH

TAX CASE APPEAL Nos.526 to 528 of 2007

The Commissioner of Income Tax,
Salem .. Appellant in all the appeals

Versus

Shri Lakshmana Gounder,
Legal representative
L.Perumakkal (Late),
15, T.B.Road,
Krishnagiri .. Respondent in all the appeals

Tax Case Appeals filed under Section 260-A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal "D" Bench, Chennai dated 11.5.2007 passed in I.T.A.Nos.231/Mds/2006, 232/Mds/2006 and 233/Mds/2006 respectively.

For Appellant .. Mr.J.Narayanasamy

For Respondent .. not ready in notice

JUDGMENT

These Tax Case Appeals filed by the Revenue calling in question the correctness of the orders passed by the Income Tax Appellate Tribunal, "D" Bench, Chennai dated 11.5.2007 in ITA.Nos. 231 / Mds/ 2006,

232/Mds/2006 and 233/Mds/2006 respectively, have been admitted on 27.07.2009 for consideration of the following substantial questions of law:

> *"i) Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal is right in not considering Section 249(4) in view of the fact that as per the amendment made with effect from 01.04.1989 by Direct Tax (Amendment) Tax Act, 1989, no power is conferred on the Appellate Authority to deal with a case where a return has been filed without payment of admitted tax?*
>
> *ii) Whether on the facts and in the circumstances of the case, the Income Tax Tribunal is right in not considering the judgment of the Madras High Court in the case of CIT Vs. Smt. Samanthakani reported in 259 ITR 215, wherein it had been held that no appeal should be admitted unless the admitted tax liability was paid by the assessee?"*

2. Circular instruction issued by the Central Board of Direct Taxes No.21/2015, dated 10.12.2015 stipulates that appeals shall not be filed/pursued by the Department before the High Court in cases where the tax effect does not exceed Rs.20 lakhs. In the instant case, the tax effect is

less than the monetary limit imposed and the appeals are hence, dismissed as not pressed, preserving the substantial questions of law for determination in an appropriate case. No costs.

(H.G.R.,J) (A.S.M.,J)

02.02.2017

msr
Index:Yes/No

HULUVADI G. RAMESH, J.
&
DR.ANITA SUMANTH, J.

msr

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